

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE NOCO COMPANY, INC.,

Plaintiff,

No. C 23-00642 WHA

v.

HULKMAN LLC and SHENZHEN
KONGHUI TRADING CO., LTD., d/b/a
HULKMAN DIRECT,

Defendants.

**ORDER GRANTING MOTION TO
STAY PENDING ITC
INVESTIGATIONS**

In this patent infringement action, defendants move unopposed to stay proceedings pending the completion of investigations by the International Trade Commission (“ITC”) of the patents-in-suit. For the following reasons, the motion is **GRANTED**.

On January 12, 2023, plaintiff filed a complaint in the Northern District of California, alleging infringement of five patents: U.S. Patent Nos. 9,770,992; 10,328,808; 10,981,452; 11,254,213; and 11,447,023. Subsequently, on February 13, 2023, plaintiff filed two additional complaints with the ITC, alleging infringement of the same patents. Two months later, on April 12, 2023, the ITC ordered that it would begin investigations of the alleged infringement of the patents-in-suit. *In the Matter of Certain Portable Battery Jump Starters and Components Thereof (II)*, Inv. No. 337-TA-1359; *In the Matter of Certain Portable Battery Jump Starters and Components Thereof (III)*, Inv. No. 337-TA-1360. Defendants then

1 filed their motion to stay proceedings pending the resolution of the investigations. Defendants
 2 conferred with plaintiff prior to filing, and plaintiff does not oppose their motion. This order
 3 finds the motion suitable for disposition on the papers under Civil Local Rule 7-1(b). The
 4 hearing is hereby **VACATED**.

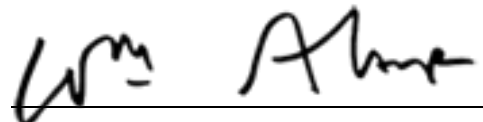
5 “[A]t the request of a party to the civil action that is also a respondent in the proceeding
 6 before the [ITC], the district court shall stay, until the determination of the [ITC] becomes
 7 final, proceedings in the civil action with respect to any claim that involves the same issues
 8 involved in the proceeding before the [ITC]” 28 U.S.C. § 1659(a). In assessing if a stay
 9 is required, the district court considers whether the moving party is a respondent before the
 10 ITC, whether the civil action and the ITC investigation involve the same issues, and whether
 11 the request is made within 30 days after the party is named as a respondent in the proceedings
 12 before the ITC or after the district court action is filed. *Ibid*.

13 Here, all of the requirements for a stay are met. *First*, defendants are participants in both
 14 this litigation and the ITC investigations (Exh. 1 at 23686; Exh. 2 at 23688). *Second*, this
 15 action and the ITC proceedings involve allegations of infringement of the same five patents
 16 (*compare* Exh. 1 at 23686, *with* FAC ¶¶ 124, 130, 136, 142, 149). *Third*, the motion was filed
 17 on April 21, 2023, nine days after notice of the ITC investigations was published in the Federal
 18 Register (*see* Dkt. No. 36; Exhs. 1–2).

19 In light of the foregoing, the motion to stay is **GRANTED**. No later than ten days after the
 20 resolution of the ITC investigations, the parties shall file a joint statement detailing their
 21 position on how this action should proceed. A further in-person status conference is hereby set
 22 for **THURSDAY, FEBRUARY 29, 2024, at 11:00 A.M.**

23 **IT IS SO ORDERED.**

24
 25 Dated: June 14, 2023



26
 27 WILLIAM ALSUP
 28 UNITED STATES DISTRICT JUDGE